

ORIGINAL

INTERVENTION
OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

20 OCT 14 P 2:45

ARIZONA CORPORATION COMMISSION
COURT CLERK

IN THE MATTER OF THE SALE AND
TRANSITION BY ARIZONA PUBLIC SERVICE
TO ELECTRICAL DISTRICT NO. 3 OF
CERTAIN ELECTRICAL FACILITIES IN PINAL
COUNTY PURSUANT TO A.R.S. 40-285(A)
AND FOR DELETION FROM ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY CERTAIN AREAS OF PINAL
COUNTY

DOCKET NO. E-01345A-08-0426

MOTION TO INTERVENE

Pursuant to A.A.C. R14-3-105, Pinal Energy LLC ("Pinal Energy") hereby moves to intervene in the above-captioned proceeding. In support of its motion, Pinal Energy states as follows:

I Service

Please serve all documents on:

Craig A. Marks
Craig A. Marks, PLC
10645 N. Tatum Blvd., Ste. 200-676
Phoenix, Arizona 85028
(480) 367-1956 (Direct)
(480) 367-1956 (Fax)
Craig.Marks@azbar.org
Attorney for Pinal Energy, LLC

Arizona Corporation Commission

DOCKETED

OCT 14 2009

DOCKETED BY

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II Interest in Proceeding

Pinal Energy owns and operates the first ethanol production facility to be built in Arizona. The facility began production in August 2007. The plant plays an important role in improving Arizona's air quality, provides 45 jobs for the Maricopa area, and, most importantly, makes a local source of ethanol available.

1 Pinal Energy's annual ethanol production rate is 50 million gallons from roughly 18
2 million bushels of corn or milo acquired from both local producers as well as from the Midwest.
3 The fuel-grade ethanol is used in blending with gasoline components to produce E10, a 10%
4 ethanol blend. The ethanol produced at the plant is also used for the blending of E85, a clean-
5 burning blend of 85% ethanol and 15% gasoline for use in flex-fuel vehicles.

6 Production of ethanol results in two other commercially viable by-products: distiller's
7 grain and CO₂. Distiller's grain is a feed utilized by dairies and feedlots. The CO₂ produced is in
8 the form of both liquid and dry ice.

9 Pinal Energy is located within the service territory of Electric District No. 3 ("ED3").
10 Ethanol production consumes large amounts of electricity. Pinal Energy's demand, including
11 that used for onsite CO₂ production, averages approximately 8.0 MW. Pinal Energy believes
12 that it is ED3's largest electricity customer, by a significant margin.

13 As more fully set forth in the accompanying Motion to Reopen Record, Pinal Energy's
14 electricity rates have risen sharply since APS and ED3 announced their proposed CC&N
15 transfer. As part of the proposed transfer, in February 2008 APS and ED3 cancelled their old
16 power purchase agreement and entered into a new power contract, whereby APS will supply
17 ED3's electricity requirements for five years at a price sharply higher than previously paid by
18 ED3. As an apparent result, Pinal Energy's average power price has increased from \$0.646/kWh
19 in March 2008 to \$0.934 in August 2009, a 45% rate increase in 17 months. Rates for Pinal
20 Energy are now substantially higher than if it were an APS customer. This massive rate increase
21 threatens the future viability of Pinal Energy.

22 No other party can adequately represent Pinal Energy's interests.

23 **III The Late Intervention is in the Public Interest**

24 Pinal Energy's late intervention is in the public interest for several reasons:

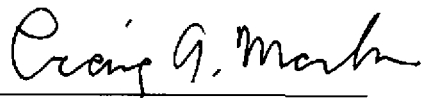
- 25 1. As a current ED3 customer, the parties were not required to provide Pinal Energy
26 direct notice of this docket. Pinal Energy only recently became aware of this docket
27 and how the proposed transactions appear to be driving up its electricity bills.

- 1 2. As part of its evaluation of the proposed transfer, the Commission did not evaluate
2 whether APS received additional consideration in the form of higher power revenue
3 from ED3. Pinal Energy can provide additional information about the new APS
4 Power Contract (No. 89695).
- 5 3. Pinal Energy can provide detailed information about the effect of the new APS Power
6 Contract on its monthly bills and its future viability.
- 7 4. Pinal Energy has been directly harmed by the proposed transaction.
- 8 5. It is in the public interest to grant intervenor status to Pinal Energy because this will
9 allow the Commission to consider and grant Pinal Energy's important Motion to
10 Reopen Record, also filed this day.

11 **IV Requested Relief**

12 Pinal Energy asks that the Commission grant its Motion to Intervene.

13 RESPECTFULLY SUBMITTED on October 14, 2009.

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24 Craig.Marks@azbar.org
25 Attorney for Pinal Energy, LLC
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27
28 **Original and 13 copies filed**
29 **on October 14, 2009, with:**

30
31 Docket Control
32 Arizona Corporation Commission
33 1200 West Washington
34 Phoenix, Arizona 85007
35
36

1 **Copy of the foregoing mailed**
2 on October 14, 2009, to:

3
4 Jane Rodda, Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 400 W. Congress St.
8 Tucson, Arizona 85701-1347
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10 Janice Alward, Chief Counsel
11 Legal Division
12 Arizona Corporation Commission
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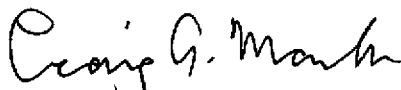
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